

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-274-C - ORDER NO. 2004-403
AUGUST 26, 2004

IN RE:	Application of Telecom Services of the)	ORDER GRANTING
	Lowcountry, LLC for a Certificate of Public)	CERTIFICATE
	Convenience and Necessity to Provide Local)	
	Exchange and Interexchange)	
	Telecommunications Services and for)	
	Modified Alternative Regulation of its)	
	Interexchange Services and Flexible)	
	Regulation of its Local Exchange Services.)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Telecom Services of the Lowcountry, LLC (“TSL”, the “Applicant” or the “Company”) for authority to provide local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Company requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business service offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2003) and the Rules and Regulations of the Commission.

By letter, the Commission’s Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the

areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

Counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would not seek authority in rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until TSL provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. TSL agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on December 17, 2003, at 11:30 a.m. in the Commission’s Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. TSL was represented by Weston Adams, III, Esquire. Walter Gnann, President of TSL,

appeared and testified on behalf of the Company. Jocelyn Boyd, Staff Counsel, represented the Commission Staff.

Mr. Gnann presented testimony to demonstrate the Company's financial, managerial, and technical ability to provide the telecommunications services for which authority is sought in South Carolina. The sole witness also presented testimony regarding his background and experience in business and telecommunications as well as that of the other executives of TSL. Mr. Gnann's testimony and exhibits filed with the Company's petition evidence that the management team of TSL has extensive experience in the telecommunications industry and that the Company is on sound financial footing to being operations in South Carolina.

TSL's internet service provider subsidiary, Internet Services of the Low Country ("ISLC"), provides internet services to approximately 13,000 customers in the Beaufort, Jasper, and Hampton County areas of South Carolina. ISLC will be the primary funding source for TSL during its initial operations. Mr. Gnann testified that ISLC has prepared the management to extend its business into telephony and provide increased competition in South Carolina. Both the Company and its subsidiary are South Carolina corporations based in Beaufort, South Carolina. Regarding the services the Company seeks to provide in South Carolina, the testimony reveals that TSL proposes to provide local exchange telecommunications services via the unbundled network platform ("UNE-P") and resold interexchange telecommunications services for the direct transmission and reception of voice and data between locations throughout the State of South Carolina. The Company intends to provide a diverse array of local exchange services including basic business and

residential services, custom-calling features, toll free calling services, blocking/unblocking services, and directory listings. The Company intends to market its services to both commercial and residential customers in South Carolina. The Company states that it will provide 911 and enhanced 911 calling to all services. Service is to be provided twenty-four (24) hours per day, seven (7) days per week. As TSL will be operating as a reseller of local exchange and long distance service, the Company's traffic will initially be routed entirely over the network of its underlying carriers. The testimony reveals further that TSL will at all times provide and market services in compliance with current Commission policies. In particular, the Company is familiar with Commission Order No. 93-462 regarding resale of intraLATA telecommunications services and will attempt to comply with the terms of that Order in every respect possible. On behalf of TSL, Mr. Gnann agreed that at all times the Company will provide interstate services in compliance with the FCC rules and regulations. Mr. Gnann further testified that the Company intends to market its services through direct solicitation. He further stated that if the Company ever begins to market its services through telemarketers that it will abide by all rules and regulations of this Commission concerning such marketing practices.

TSL has requested waivers of certain Commission rules and regulations. Specifically, TSL has requested that it be allowed to maintain its books and records under Generally Accepted Accounting Principles ("GAAP") as opposed to the Uniform System of Accounting ("USOA"). Additionally, the Company has requested waivers of the requirements that it publish and distribute a local telephone directory under Regulation

103-631 and that it be required to file with the Commission maps of its operating area under Regulation 103-612.2.3.

TSL's customer service representatives are available to assist the Company's customers and to promptly respond to all customer inquiries. The Company's toll free number and address will be printed on customers' monthly billing statements. Mr. Gnann testified further that the Company's customer service representatives are prepared to respond to a broad range of service matters, including inquiries regarding the types of services offered by TSL and the rates associated with the services; monthly billing statements, problems or concerns pertaining to a customer's current service; and general service matters.

Mr. Gnann testified that the residents of South Carolina will benefit from TSL's service and presence in South Carolina. The testimony reveals that customers in the Company's service territory will receive increased choice and heightened opportunities to obtain improved technology in their homes and businesses. Further, Mr. Gnann opined that the granting of the certificate of authority to provide local exchange service will offer increased efficiency to the State's telecommunications infrastructure through greater reliability of services and an increase in competitive choices. The testimony reveals the Company agrees to abide by and comply with the Commission's rules, regulations, and Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. TSL is organized as a corporation under the laws of the State of South Carolina with its headquarters in the City of Beaufort and is in good standing with the South Carolina Secretary of State's Office.

2. TSL is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. TSL has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that TSL's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2003).

5. The Commission finds that TSL will support universally available telephone service at affordable rates.

6. The Commission finds that TSL will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by TSL "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2003).

8. We find that the issuance of the authority requested by TSL is in the best interests of the citizens of the State of South Carolina.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to TSL to provide competitive intrastate resold and facilities-based local exchange telecommunications services in South Carolina. The terms of the Stipulation between TSL and the SCTC are approved and adopted as a part of this Order, and therefore, any proposal by TSL to provide local telecommunications services in rural service areas is subject to the terms of the Stipulation. In addition, TSL is granted authority to provide resold and facilities-based intrastate interLATA interexchange service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. TSL shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. TSL's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for TSL's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, TSL's local exchange service tariff

filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

3. The Commission adopts a rate design for the long distance services of TSL which are consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of TSL, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an

investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to TSL also.

4. With regard to the interexchange residential service offerings of TSL, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. TSL shall not adjust its interexchange residential rates below the approved maximum level without notice to the Commission and to the public. TSL shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2003).

6. If it has not already done so by the date of issuance of this Order, TSL shall file its revised interexchange long distance tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

7. TSL is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

8. With regard to the Company's offering of interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. TSL shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If TSL changes underlying carriers, it shall notify the Commission in writing.

10. With regard to the origination and termination of toll calls within the same LATA, TSL shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph four of the Stipulation and Appendix B approved by Order No. 93-462.

11. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

TSL shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at www.psc.state.sc.us/reference/forms.asp to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

12. TSL shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

13. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a “Public Safety Communications Center,” which is more commonly known as a “911 system” or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs TSL to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be

operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, TSL shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

14. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. TSL is required to make certain reporting filings with the Commission. TSL shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, TSL shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission's website at www.psc.state.sc.us/reference/forms.asp . The title of this form is "Annual Report for CLECs" and/or "Annual Report for Interexchange Companies." The Company shall file the annual report form with the Commission by April 1st of each year.

Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled “Gross Receipts Form for Utility Companies” and may also be found on the Commission’s website at www.psc.state.sc.us/reference/forms.asp.

Additionally, pursuant to the Commission’s regulations, the Company shall file a “CLEC Service Quality Quarterly Report” with the Commission. The proper form for this report can be found at the Commission’s website at www.psc.state.sc.us/reference/forms.asp. These “CLEC Service Quality Quarterly Reports” are required to be filed within 30 days of the end of each calendar quarter.

16. The Federal Communications Commission (FCC) in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2002, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to their assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 1, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. This Company must comply with the applicable

mandates. For complete information on compliance with this FCC and Commission requirement, go to the Commission's website at www.psc.state.sc.us/reference/forms.asp.

17. For good cause shown, TSL is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Practices rather than the Uniform System of Accounts method.

18. For good cause shown, TSL is granted a waiver of the requirements that the Company publish and distribute a directory under S.C. Code Ann. Reg. 103-631 and that it file service area maps with the Commission. TSL is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory.

19. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice-Chairman

(SEAL)